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Committee on State Affairs and Government Operations

AB 648

AB 648 is a bill that if signed into law will clear up some confusion regarding an Administrative Rule at DSPS. As a state, we brought on this ambiguity by creating a clear carve-out to NFPA 2000 regarding Christmas trees and rescinding that exclusion without further clarification when NFPA 2008 was adopted. The scope of these rules apply to the inspection, testing and maintenance of all fire safety features for most public buildings and places of employment.

Contained within the Administrative Rules of Chapter SPS 314 is a discussion about live Christmas trees. SPS 314.10(3) advises the reader to view more detailed guidance that is located on the DSPS website. I would like to direct your attention to the attached table, 10.14.1.1, which clearly states “no trees permitted” within places of assembly (50 or more people).

Just prior to this table in NFPA 10.14.1 is a catch-all statement that causes confusion for some of our fire chiefs. It says that “combustible vegetation, including natural cut Christmas trees, shall be in accordance with Section 10.14” (10.14 is the “Combustible Vegetation portion of NFPA code.). The separation of the phrase “including natural cut Christmas trees” by commas leads some to believe that natural cut trees are not included under “combustible vegetation.”

Continuing on, 10.14.2 states that combustible vegetation shall be permitted where the AHJ (authority having jurisdiction) determines that adequate safeguards are provided based on the quantity and nature of the combustible vegetation. If the AHJ already has a premise that natural cut Christmas trees are not part of the “combustible vegetation” exemption, then the following guidelines are moot. Some of the exemptions that NFPA 10.14 continues to address, and that are cited as allowable by municipalities including Milwaukee and Merrill, are:

10.14.4 *Vegetation and Christmas trees shall not obstruct corridors, exit ways, or other means of egress.*

10.14.5 *Only listed electrical lights and wiring shall be used on natural or artificial combustible vegetation, natural or artificial Christmas trees, and other similar decorations.*

10.14.7 *Open flames such as from candles, lanterns, kerosene heaters, and gas-fired heaters shall not be located on or near combustible vegetation, Christmas trees, or other similar combustible materials.*

10.14.9.1 *Where a natural cut tree is permitted, the bottom end of the trunk shall be cut off with a straight fresh cut at least $\frac{1}{2}$ in. (13 mm) above the end prior to placing the tree in a stand to allow the tree to absorb water.*

10.14.9.2 *The tree shall be placed in a suitable stand with water.*

10.14.9.3 *The water level shall be maintained above the fresh cut and checked at least once daily.*

10.14.9.4 *The tree shall be removed from the building immediately upon evidence of dryness.*



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These are all very common-sense provisions. Any fire inspector walking through any building will be certain to address a fire hazard – whether that be a circuit breaker panel with hanging wires, a burned out light bulb on an egress light or a dried out, natural cut Christmas tree.

When this concern was first brought to my attention by a local church in early December, I contacted DSPS and Legislative Council. Both provided me with detailed information. This guidance was forwarded on to the local fire department and church, but the AHJ stated again that he would not be allowing a natural cut Christmas tree next year and did not believe the interpretation by Legislative Council was correct.

The following is guidance that I received from the Legislative Council:

*“You asked whether churches are prohibited from displaying natural-cut Christmas trees indoors. As discussed in more detail below, a church **may** display a natural-cut Christmas tree indoors **if the local fire authority determines that adequate safeguards are provided.***
[Emphasis added]

“This provision comes from the 2012 version of the National Fire Protection Association (NFPA) Fire Code, which the Department of Safety and Professional Services (DSPS) has incorporated into its administrative rules. [[s. SPS 314.001 \(1\), Wis. Adm. Code.](#)]

“Although the NFPA Fire Code prohibits a Christmas tree from being displayed in a church, it also states that ‘in any occupancy, limited quantities of combustible vegetation shall be permitted where the AHJ [Authority Having Jurisdiction] determines that adequate safeguards are provided based on the quantity and nature of the combustible vegetation.’ [See sections 10.14.1.1 and 10.14.2 of the attached NFPA document.]”

So, although I applaud my local fire chiefs for following the law, it is obvious that their legal interpretation is significantly different from that of the Legislative Council and DSPS.

In closing, this bill will clarify that, regardless of varying NFPA 10.14 interpretations, a natural cut Christmas tree will be deemed safe within a church or the state Capitol building until it is proven otherwise – as would be the case during any routine fire inspection with any other safety hazard in any commercial building.